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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

“ECF CASE”

Judge Karas

ITA MARY RIORDAN, a/k/a MARY RIORDAN,
as Parent and Natural Guardian of GARRY RIORDAN,
and GARRY RIORDAN, individually and as an
incompetent adult.

CIVIL ACTION
#08-CIV. 2035

Plaintiffs,

**PLAINTIFF’S REQUIRED
DISCLOSURES
PURSUANT TO FRCP 26**

-against-

THE CITY OF YONKERS, THE CITY OF
YONKERS POLICE DEPARTMENT, P.O. PRENI and
P.O. LIEN, POLICE COMMISSIONER EDMUND
HARTNETT, and JOHN DOE I-III,

Defendants.

ITA MARY RIORDAN, a/k/a MARY RIORDAN, (hereinafter known as “MARY RIORDAN”), as Parent and Natural Guardian of GARRY RIORDAN and GARRY RIORDAN, individually and as an incompetent adult, by and through their attorneys, GAINES, GRUNER, PONZINI & NOVICK, LLP, as and for their required disclosures pursuant to FRCP 26 state as follows:

(a) Witnesses that have discoverable information:

(i) Garry Riordan
57 King Avenue
Yonkers, New York 10704

GARRY RIORDAN (“GARRY”) is the plaintiff. GARRY’s date of birth is December 25, 1984. GARRY was born in Ireland. GARRY has cerebral palsy, a speech impediment and is learning disabled. GARRY’s parents moved to the United States in 1993, when GARRY was about nine years old. On the morning of the incident alleged in GARRY’s Complaint (July 25, 2007), GARRY was sworn in as a United States citizen.

GARRY testified at an examination held pursuant to section 50-H of the New York State General Municipal Law.

An overview of GARRY’s testimony is as follows:

GARRY lives on 57 King Avenue in Yonkers, New York, with his mother, father, and some siblings. GARRY’s home is near the “HMDAN” Convenience Store¹ located at 837 McLean Avenue in Yonkers, New York. GARRY often walks to the store to buy cakes. On the night of the incident, GARRY was standing on the street near the BP Gas Station on Harding Avenue, near a tree adjacent to the driveway of 51 Harding Avenue. GARRY will testify that while he was standing on the street, three officers approached him, one of which had no hair and appeared to be tall. GARRY will testify that the officer with no hair told GARRY to freeze. GARRY will testify he complied. GARRY will also testify that the bald officer kicked out GARRY’s feet from under him, before he was asked even a single question, causing GARRY to fall to the street. GARRY was scared because the officers were “mean” and were “laughing” as they forced GARRY to stay on the ground. GARRY will testify the officers told him to stay on the ground and that he obeyed that order. GARRY will testify that an officer with no hair held a gun to his head as he was on the ground, motionless. GARRY will testify

¹ The store was robbed on July 25, 2007. Upon information and belief, two males performed the robbery. The night that the police beat up GARRY, was alone.

that despite the fact that he was motionless, on the ground, and handcuffed, the officers kicked him. GARRY will also testify that he was hit with a black bat. GARRY will testify that he was hit with the bat on the legs and on his right lower back. GARRY will testify that the officers then grabbed him and dragged him across the street, causing injuries to both knees, and they then threw him in a squad car. GARRY will testify that he was driven to the store and that the store owner informed the police that GARRY was not the person who robbed the store. GARRY will testify that the officer drove him back to his house, took the handcuffs off his wrists, and that GARRY was pushed out of the squad car, into the street. GARRY will testify he was brought to the hospital by his parents for treatment of his injuries. GARRY will testify that he lost his appetite, suffered cuts and bruises to both knees, that both knees hurt, that his left wrist, right and left arms and lower back were injured. GARRY will testify that the officer hit his right hip area with a gun. GARRY will testify that the officers laughed as they hit his body. GARRY testified at his 50-H hearing that he thought that the officers had “fun” while he was being hit. GARRY has seen physicians and therapists to treat his physical and mental injuries. GARRY will testify that he is nervous since the incident with the police. GARRY has not been back to the store since the incident without his father being present, because he is afraid to go alone.

- (ii) MARY RIORDAN (“MARY”) is GARRY’s biological mother. MARY will testify as follows:

GARRY has been diagnosed with cerebral palsy, speech impediment and learning disability. GARRY has the mental capacity of a six year old. GARRY can dress himself and make tea. GARRY was born in Ireland and moved to the United States in 1993 when he was about 9 years old. GARRY went to Gorton High School, which has a special education department.

MARY has seven children. GARRY's brother, Jonathan, who is ten months older than GARRY, also has cerebral palsy.

MARY will testify that GARRY has taken sleeping medication since he was beaten by the police. GARRY's physician, Dr. Siminato at Montefiore Medical Center, prescribed sleeping medication for GARRY. GARRY had never taken sleeping medication prior to the incident. GARRY is still able to do all general household tasks. Prior to the incident with the police, GARRY was able to walk around his neighborhood and into stores on McLean Avenue, buying whatever he desired. GARRY used to go out and walk around, every day, on his own. Now, GARRY does not go out alone.

On the night of the incident, GARRY left the house around 9:30 p.m. to see if his brother, Jonathan, was walking up the street after he finished playing bingo at St. Barnabas Church. GARRY generally walked to the store referred to above in (a)(I) to buy cakes, two times a day.

The next time MARY saw GARRY on the day of the incident was around 9:45 p.m. to 10:00 p.m., when Mrs. Murphy (a neighbor and witness who will also testify), came running across the street to alert MARY that the police arrested GARRY and were beating him up outside. MARY will testify that Mrs. Murphy told her she had heard a noise, had looked out a window to see what was happening, and that she screamed and called her husband, John Murphy. Upon seeing the police beating up GARRY, John Murphy followed the police to the store to check on GARRY's safety. MARY will testify she was just about to get in her van to find GARRY, having just learned what Mrs. Murphy told her, when she learned that the police had returned GARRY to their home. MARY will testify that her husband, JOHN RIORDAN, saw the police push GARRY out of the squad car. MARY will testify that she said to the Yonkers Police, in sum and substance, "how could you not tell

he was handicapped?”, to which the police responded that GARRY was wearing a blue shirt and, sarcastically, that GARRY “did not have a sign saying he was handicapped.” MARY will testify she brought GARRY to St. Joseph’s Hospital for treatment of his injuries. GARRY sustained injuries to his body in multiple areas and has suffered psychological injuries which, because he has cerebral palsy, cannot be adequately treated.

(iii) JOHN RIORDAN (“JOHN”), GARRY’s biological father, will testify as follows:

JOHN will testify substantially the same way as MARY, and will testify as to GARRY’s physical and mental injuries.

(iv) Dr. Crueza Simionatto, P.C.P.
Montefiore Medical Group
1010 Central Avenue
Yonkers, New York 10704

GARRY’s PCP, Dr. Simionatto, will testify that:

She treated GARRY on July 27, 2007, as a result of his altercation with the police, for multiple superficial shin abrasions to GARRY’s knees, left wrist, and hematoma to the lumbar area. Dr. Simionatto cleaned and dressed GARRY’s wounds, diagnosed him with Post-Traumatic Stress Disorder, and referred him to Connie McNeil, (a social worker?).

She treated GARRY again on July 31, 2007, and checked his wounds. She will testify that GARRY’s father told her GARRY was not eating or sleeping and he was now afraid of the police and police sirens. GARRY’s right knee wounds were still open, and his left knee wounds had crusted. GARRY was referred to a mental health professional.

Dr. Simionatto treated GARRY again on August 3, 2007. Most of GARRY’s wounds were healing, but his right knee was still open. GARRY was still unable to sleep, was afraid of the police,

and was again diagnosed with Post-Traumatic Stress Disorder. Dr. Simionatto prescribed Paxil to treat the Post-Traumatic Stress Disorder.

She treated GARRY again on October 3, 2007. GARRY's right knee still hurt. GARRY saw a psychologist who informed the family she could not do anything to help GARRY. GARRY is still very afraid of the police, police cars, and sirens and has nightmares. Additionally, mental health referrals were made to GARRY, to no avail.

Dr. Simionatto treated GARRY again on January 8, 2008. GARRY still has fears of the police and does not sleep well. GARRY's family could not locate a psychologist who could successfully treat him in Westchester or Brooklyn.

Dr. Simionatto will testify that GARRY's physical injuries and Post-Traumatic Stress Disorder are causally connected to the incidents that occurred on July 25, 2007 with the Yonkers Police.

- (v) Individuals from Westchester Jewish Community Services located at 487 South Broadway in Yonkers, New York; the Westchester County Community Mental Health may testify, the substance of which is not yet known.
- (vi) ALMAD AHI a/k/a "Moe" from the HMDAN Convenience Store will testify that two individuals robbed him and that GARRY was not one of the individuals who robbed him.
- (vii) an individual from the taxi company next door to HMDAN might testify that he/she called 911 when HMDAN was robbed.
- (viii) Mr. and Mrs. John Murphy, 51 Harding Avenue, Yonkers, New York, will testify as

follows: Mrs. Murphy heard a noise, looked out the window, saw police hitting GARRY and screamed for her husband. Mr. Murphy will testify he went outside to make sure GARRY was o.k., to confront the police, and to follow them to HMDAN to make sure GARRY got home safely.

(ix) JAMES MCGOVERN from 53 Harding Avenue might testify as well.

All documents in plaintiff's possession, custody and control are annexed hereto. The documents are medical records and photographs depicting plaintiff's head injuries. Annexed are authorizations enabling you to obtain plaintiff's medical records.

Damages: An overview of plaintiff's damages is as follows: Plaintiff has been physically, mentally and emotionally damaged; Plaintiff has past pain and suffering and will have future pain and suffering; Plaintiff has past medical expenses and future medical expenses; Plaintiff suffers from Post Traumatic Stress Disorder; scars; loss of sleep; depression; pain (past and future); suffering (past and future); medical bills (past and future); medications for pain and to manage the injuries; therapy; anxiety; fear of police and sirens; Plaintiff has other injuries the full extent of which are not known. Authorizations have been provided enabling defendants' counsel to obtain all of plaintiff's medical records so that injuries and damages can be ascertained and assessed.

Insurance Agreements: Not applicable to plaintiff.

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BY: /s/
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